

Athenian News :

O R,

Dunton's Oracle.

From Tuesday August the 29th, to Saturday September the 2d, 1710.

The Case of Henry, late Duke of Norfolk, with Respect to his Wife's Adultery : Or, the Conjugal-Post, containing some Remarks on Divorces, and upon Re-Marriage upon a Divorce.

HENRY HOWARD, the late Duke of Norfolk, Earl of Arundel and Norwich, and Earl Marshal of England, has inherited all these Titles and Dignities upon the Decease of his Noble Father, HENRY, Duke of Norfolk, &c. He marry'd the Earl of Peterborough's Daughter, by whom he has no Issue, and from whom (after he had been marry'd 23 Years) he procur'd a Divorce in Parliament. I might be large in recording the Life of so great a Man; but my Design is Brevity,

*And should I praise him in Heroick Strains,
The Lady M——t wou'd forbid the Banes.*

And therefore I shan't enlarge on his Noble Qualities, any further than to say, HE LIV'D AND DY'D, and to his Honour be it spoken, was the First Protestant Duke of his Family. But the Divorce he procur'd in Parliament, being what has made so great a Noise in the World, I shall speak something briefly of that.

In the Case of the Marquess of Northampton, it was hard to get an Act after a Divorce; so it was in the Case of my Lord Rosse; yet the Duke of Norfolk produced such Evidence of his Wife's Adultery, that he procured an Act of Parliament to dissolve his Marriage, after Twenty three Years Continuance. 'Tis not pretended in the Duke's Bill, That the Dutchess had any spurious Issue; neither was there any Proceeding in any Court whatsoever, to convict the Dutchess

of this Offence; no Citation in the Ecclesiastical Courts, where the Dutchess might have an Opportunity to make her Defence. Mr. N——, Council for the Duke of Norfolk, said, 'He shou'd not spend any time in aggravating the Crime of Adultery, but said, the Facts to be prov'd, was, That the Dutchess has liv'd for divers Years in Separation from the Duke, and had unlawful Familiarity, and adulterous Conversation with Sir J—G— And this (added he) our Evidence will make out to you, as plain as 'tis possible, to expect a Matter of this Nature to be prov'd.— He further adds, After she had liv'd two Years at Fox-Hall, she removed Home again to her House at Millbank, and there Sir J—G— and she were frequently together, and have been seen a Bed together.— So that the Duke having certain Proof (which he produced) of his Wife's living in Adultery, the Act pass'd, and was entituled, *An Act to dissolve the Duke of Norfolk's Marriage with the Lady Mary Mordant, and to enable him to marry again;* but he never did, and his Death has now depriv'd us of all Hopes of his leaving any Heir of his own Body, to his Titles and Estate. As this Divorce between the Duke and Dutchess of Norfolk, is what has made so great a Noise in the World, (and is yet like to do so, as several Men of Quality are now endeavouring for the same thing,) it may be very seasonable to make some Remarks on Divorces, and upon Re-marriage upon a Divorce.— When we say the *Vinculum Matrimonii* is dissolved, we speak not of actual Dissolution, but virtual Cause of Dissolution: In this, and in all other Obligations arising from Contract, when the Bond is broken, 'tis a Rule, *Potest innocens cedere Juri suo*; and if the Offended will not take the Forfeiture, the Bond continues. Adultery does not, *ipso facto*, dissolve the Marriage, but gives

gives a Right to the innocent Party to dissolve if he please, puts the Power into his Hand, which he may, *ad libitum*, make use of or not; for as Divines say, *Divortium non est preceptum, sed tantum permissum & probatum*, 'tis a Liberty given in Favour to him that is wronged in the Matrimonial Contract, which he is not bound to make use of, unless he will: God seems to intimate so much in the Prophet, *Where is the Bill of your Mother's Divorcement?* There was Cause enough, the Covenant was broken on their Part, yet God was pleas'd to forgive it, and not take the Forfeiture; no Bill of Divorce was actually given; if it had, they could have returned no more; the Separation had been irremediable. Now, that Adultery in this Sense is a Dissolution of the Marriage-Bond, that 'tis a sufficient Ground to dissolve it, if the innocent Party please, will appear, both from Christ's Permission about it, and from the Nature of the Thing it self. *First*, from Christ's Permission about it: He plainly admitted Adultery to be a good Ground of Divorce, and permitted Re-marriage upon that Divorce: Let his Permission be to whom it will, our Saviour would never have given Liberty to any Man to re-marry upon Adultery, unless that had dissolved the first Marriage; for it had been to permit a positive Sin upon those very Grounds, upon which our Saviour himself, in that very Place, does establish the Bond or Marriage. If the Bond of Marriage can be broken in no Case, our Saviour would never have allowed putting away and re-marrying in any Case. *Secondly*, From the Nature of the Thing it self: It cuts the very Knot of the Marriage-Contract, which is, That two shall become one Flesh; and in that Case, two are not one Flesh, which they covenant to be, and are to be, in a chaste and peculiar Enjoyment of each other in the Marriage-bed; for St. Paul says, *He that joyns himself to an Harlot, is one Flesh with her*. By the Marriage-Contract they have resigned their Bodies over each to other, and have not Power in that Respect over their own Bodies. In Case of Adultery, there is the highest Breach of that Obligation.—— All other things whatever, relating to Marriage, may be enjoyed upon other Accounts, and in other Relations, but only the Body, and the Concerns of it; and therefore, when the Faith about the Body is broken, Faith is broken about that which is the peculiar Property of Marriage, and that which does formally distinguish it from all other Rela-

tions.—— A charitable pardoning Spirit is very suitable to the Gospel, and becoming a Christian; but I think a Man ought not to be imposed upon in this Case. Where a Man is wronged, and Christ hath provided a Way to right him, Justice in that Case must not be denied him, if he require it. A Man may, if he please, forgive an unclean Wife, and continue to live with her: But I incline to Calvin's Opinion, That he will do much better to put her away, and cleanse his House (nay his Bed) from Defilement and Wickedness.—— I shall only add, that amongst Learned Men, I find great Disagreement in resolving this Question, *Whether the same Right of Divorce belong to the Woman, that does to the Man?* Some say, The Superiority of the Sex makes this a peculiar Prerogative to the Man, who is the Head of the Woman. 'Tis certain, in the *Mosaical Law*, no such thing as a Woman's putting away her Husband, was ever allowed; sometimes in Fact it was illegally and irregularly practised, yet very rarely. We find in all the *Jewish Writers* but one Instance, and that is in *Josephus*: The *Roman Laws* allowed it. Those who espouse the Woman's Cause in this Point, urge that Passage of our Saviour, in the 10th of *Mark*, where he saith, *And if a Woman put away her Husband, and marry another, she commits Adultery*; and so seems to make the Right of putting away, equal. Calvin, upon this Place, saith, That altho' the Husband be superior in other Respects, yet in the Marriage-bed the Man and the Woman are equal: Therefore, saith he, *when as the Adulterer shall fall away from the Knot of Matrimony, the Wife is set at Liberty*. They also urge that of St. Paul, who saith, in Case of Desertion, a Brother or a Sister is not bound, and so seems to put the Matter between Man and Wife upon even Terms in all Conjugal Respects. The Christian Church affords us but two Instances that look this Way: The first, of one *Thecla*, who refused to marry one *Thamyris* in *Iconium*, after she was contracted to him. This Story, Mr. *Selden* relates at large, from the Report of *Basil of Selucia*, but seems not to credit it himself: However, it was but a refusing Marriage after Contraction. Mr. *Selden* calls her only *Sponsa*, and saith, *Nuptias non luit, & sponsalibus renunciavit*; and it was to one that most bitterly detested Christianity. The other Instance is that in the Beginning of *Justin Martyr's First Apology*, where a Christian Woman made use of the *Roman Laws* to put away her Husband; and he commends her for it: But that was

was evidently upon St. Paul's Permission, in Case of Desertion; for her Husband was a notorious wicked Person, and departed from her.

The Rhiming-Post continued: Or, more Poems on Subjects desired.

The BEADSMAN.

To John Dunton, Esq; Post-Master General of Great-Britain.

(sir,
PRAY Sir, give something, wou'd your Mony
 I'd pray, you ne'er might live to want it, Sir:
 You're call'd Post-Master General—I hear,
 Then Squire Dunton, good your Worship, spare;
 Bestow an Alms, altho' but Sixty Pence,
 (For if you give, give like a Man of Sense).
 I almost starve, and han't a Bed to snore in,
 Nothing to keep me warm nor Guts from roaring.
 Then feed my Muse,—You see I beg in Rhime,
 And wish your Post may run to th' End of Time.

DUNTON'S Answer.

I Thank you for your Rhimes, there cannot be
 A surer Voucher of your Poverty;
 Verse shews a swelling Mind, but a lank Purse,
 This makes me answer you again in Verse:
 But to the Purpose, Sir; Alas! My Fate,
Fits me to pity, not to help your State;
 And pity without help, is just as good
 As much-good-do-you, when a Man wants Food;
 God-help-you, will not do, 'tis of no Force;
 Prayers can do much, these are but Words of course,
Acivil no: A skilful Beggar swore,
 That godly Talkers seldom help the Poor.
 Alas! I cannot help it; I use Wit
 Sometimes, like you, to bribe a Benefit.
 So that to beg of me, is but to call
 For Alms, at th' Door of some poor Hospital.
 I'm but a Beads-man of the better Note,
 Like them in every thing, but Beard and Coat.
 'Tis true, Post-Master General I am,
 But 't'ent in Office but in empty Fame,
 For to a Sign-Post * 'tis I owe the Name.
 Then, Sir, repair to some rich Squire's Gate,
 For all the Muses cannot give a Groat,
 They're poor as Job, and scarce get Bread to eat.

* Oracle, Numb. 12. Where in the Essay entitled, The Sign-Post, you'll see the Reason why our Begging-Post gives me the Title of Post-Master General of Great Britain.

The Rapture: *Address'd to the Beautiful Orinda.*

THrice happy Day, when first I gaz'd on you,
 And saw all Heav'n expos'd to mortal View:
 Unjustly we of Phaeton complain,
 Your Looks have set the World on Fire again;
 Looks so divine, so lovely bright, so pure,
 Not uncompound'd Essences are more;
 Modest, as she that first salutes the Sky,
 And blushes at th' Approach of Phabus Eye;
 Pleasant, as Eastern Flow'rs, while they consume,
 And breath away their Lives in rich Perfume.
 So like your Mind, which thro' the purest Skin
 Displays it's Nunnery of Thoughts within,
 With such a Grace the precious Flies appear,
 Enshrin'd in Chrystal, or an Amber Tear;
 But sure you have no Matter, sure your Mind,
 Is clad in Substances of Souls refin'd.
 Or we may guess Providence did delay,
 Curious to find some nobler Piece of Clay,
 Whilst your impatient Form stole unarray'd a-
 (way)
 Or else Heav'n sent you thus, to let us see
 What at the Resurrection we shall be.

The Drunken Bout.

I.
Let's drink and revel whilst we may,
 And wisely prop our nodding Fate;
 The eager Minutes fly away,
 And then, alas! 'twill be too late.
 II.
 Egypt is fruitful still the more
 The Channel of their Nile runs high;
 But when she leaves the beaten Shore,
 The Meadows seem to pine and die.
 III.
 Nature is constant still in this,
 The very Gods themselves wou'd think
 Their Life but an imperfect Bliss,
 Had they not nobler Wine to drink.
 IV.
 The Indian Princes scarce are found
 But in their drunken Fits to play,
 Like their great God they still go roundly,
 And rise much fresher ev'ry Day.

Upon CUPID'S Darts.

AS Vulcan at his Anvil stood,
 Forging Love's Darts, gentle and good,
 Of Red-hot Steel; which did retain
 Some Sparks, that use to burn again,

Venus in Honey dipt them all,
 And Love allay'd the Sweets with Gall.
 When furious *Mars* return'd from Fight,
 Without a glimm'ring of Delight.
 No smiling Looks, no unusual Grace,
 Disturb'd the Majesty of his Face.
 In's dreadful Hand a Spear he bore,
 The rougher Instrument of War.
 And laughing, took up Love's light Dart,
 (But little thought it caus'd such Smart)
 This is, said he, a pretty Toy,
 A Play-thing fit for such a Boy ;
Cupid at length made this Reply,
 Sir, if you please the Lightness try ;
 With that he shot the new-made Arrow,
 Which pierc'd him to the very Marrow,
 And wounded deep: but *Venus* smil'd
 To see the God of War beguil'd.
 Who vainly pray'd ; hence, hence remove
 The Dart, I feel enough of Love.
 No, no, Love cry'd, your Pain enjoy.
 You know my Arrow's but a Toy.

Conjugal Honesty : Or, the true Marriage.

I.

IN Love's School I've lately enter'd,
 And have chose my Nuptial Mate,
 On her Vertues I have ventur'd,
 E're I counted her Estate.

II.

I have seen her Grace exceeding
 All the Stroke of wanton Girls :
 I priz'd her Bounty and her breeding
 Richer than a thousand Pearls.

III.

And such Wealth will ne're be spent all,
 Her virtuous Soul cannot decay :
 And where such Beauty's Ornamental,
 Who can turn their Hearts away ?

IV.

And therefore my Love I'll cherish,
 'Till I make my Bliss Divine,
 And let me for ever perish,
 When I cease from being thine.

*Opinion is the Rate of Things : Or, a Panegyrick
 on a homely Mistress.*

WHY slight you her whom I approve ?
 Thou art no Judge to try my Love ;
 Nor canst discern where her Form lies,
 Unless thou sawest her with my Eyes.

Say she were foul, or blacker than
 The Night, or Sun-burnt *African* ;
 If lik'd by me, 'tis I alone
 Can make a Beauty where there's none.
 All Beauty still from Fancy springs,
 Opinion is the Rate of Things.
 For rated in my Fancy she,
 Is so as she appears to me.
 'Tis not the Feature or a Face
 That doth my fair Election Grace :
 Nor is my Fancy only led
 By a well temper'd white and red ;
 Could I enamour'd grow on those,
 The Lilly and the blushing Rose,
 United in one Stalk might be
 As dear unto my Thoughts as she,
 But I look farther and do find,
 A richer Beauty in her Mind :
 Where something is so lasting Fair,
 As Time and Age cannot impair.
 Hadst thou a Prospective so clear,
 That thou could'st view my Object there.
 When thou her Vertues didst espy,
 Thou'dst wonder and confess, that I
 Had Cause to like ; and learn from hence,
 To love by Judgment, not by Sense.

To the Moment last past.

O Whither dost thou fly ? Cannot my Vow
 Intreat thee tarry ? *Thou wert here but now,*
 And thou art gone ; like Ships which plough the
 (Sea,
 And leave no Print for Man to track their Way.
 O unseen Wealth ! who thee did Husband, can
 Out-vie the Jewels of the Ocean,
 The Mines of th' Earth ! One Sigh well spent in
 (thee,
 Had been a Purchase for Eternity !
 We will not lose thee then : Oh Mortals where,
 Shall we find out his hidden Sepulcher ;
 And we'll revive him. Not the cruel stealth
 Of Fate, shall rob us of so great a Wealth.
 Undone in Thrift ! while we besought his stay,
 Ten of his Fellow Moments fled away.

On a Beautiful Lady that had the Small-Pox.

A Beauty smoother than the Ivory Plain,
 Late by the Pox injuriously was slain.
 'Twas not the Pox, love shot a thousand Darts,
 And made those Pits for Graves to bury Hearts:
 But since that *Beauty* hath regain'd its Light,
 Those Hearts are doubly slain it shines so bright.